

REMARKS

The present application was filed on September 23, 2003 with claims 1-21. Claims 1-4, 7-10 and 21 are pending with claim 1 the pending independent claim.

Claims 1-3, 7, 9, 10, and 21 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,581,056 (hereinafter "Rao").

Claim 4 is rejected under 35 U.S.C. §103(a) as being unpatentable over Rao in view of U.S. Patent Application Publication No. 2003/0167259 (hereinafter "Casson").

Claim 8 is rejected under 35 U.S.C. §103(a) as being unpatentable over Rao in view of U.S. Patent No. 5,890,150 (hereinafter "Ushijima").

With regard to the §102(e) rejection of claim 1, Applicants initially note that the Examiner claims that "[i]t should be noted that a reference may be relied upon for all it would have been reasonably suggested to one having ordinary skill in the art, including nonpreferred embodiments," cited by MPEP 2123.

Applicants respectfully submit that *Merck & Co. v. Biocraft Laboratories*, 874 F.2d 804, 10 USPQ2d 1843 (Fed. Cir.), *cert. denied*, 493 U.S. 975 (1989), cited by MPEP 2123, in fact states (with citations omitted):

Unlike a section 102 defense which requires that a single reference describe each and every element of a claimed invention, the question under 35 USC 103 is not merely what the references expressly teach but what they would have suggested to one of ordinary skill in the art at the time the invention was made.

Accordingly, Applicants continue to assert that a given claim is anticipated "only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, the cited reference must show the "identical invention . . . in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

In the present Office Action, at page 7, second paragraph, the Examiner argues, with reference to Rao at column 6, line 60, to column 7, line 31, that “one or [sic] ordinary skill in the art would clearly recognize that these teachings of Rao are equivalent to the claimed feature of analyzing the query results with respect to the terms (either used in the query or not exact cluster terms) in order to refine a query.”

Applicants respectfully submit that the Examiner has mischaracterized the limitation of at issue, which does not recite “analyzing the query results with respect to the terms . . . in order to refine a query,” but rather includes a limitation wherein a method of rewriting a query includes a step of analyzing the query results with respect to the one or more target attributes and the one or more auxiliary attributes to determine a relative selectivity for the one or more auxiliary attributes. Illustrative embodiments are described in the specification at, for example, page 6, line 18, to page 7, line 22, with reference to FIGS. 4 and 5.

Moreover, the relied-upon portion of Rao describes “various query refinement and browsing tools” which “allow the user to more easily utilize the information obtained by a query to formulate a more restrictive query and to evaluate higher-level strategy options,” including “versions of relevance feedback, scatter/gather, snippet search, and similarity search.” See Rao at column 6, lines 50-58. In other words, the relied-upon portion of Rao teaches techniques for rewriting a query based on a user’s analysis of information obtained by a query.

For example, the Examiner argues that the relied-upon portion of Rao discloses “that an automatic procedure (or done by the user) is used to reweight, add or remove terms in a subsequent query.” Applicants respectfully submit that the Examiner appears to be referring to Rao at column 6, lines 60-64, which states that “[i]n relevance feedback a user indicates documents in the ephemeral collection that are relevant. Typically, an automatic procedure is used to reweight, add, or remove terms in a subsequent query (although some systems permit this to be done by the user).” As such, the relevance feedback technique taught by Rao refines query terms based on the user’s indication of which documents in the ephemeral collection are relevant.

The Examiner also quotes from Rao at column 6, lines 65-66, which state that “[i]n scatter/gather and snippet search the focus is on ‘browsing’ the result set to help refine a query.”

However, both the scatter/gather and snippet search techniques rely on the user "browsing" the result set; see, for example, Rao at column 7, lines 13-21:

In scatter/gather, the user can take advantage of aggregate properties and a multitude of individual properties of matching items, rather than relying on ad hoc browsing of a few items. The user can then see how the result partitions and utilize terms from cluster term summaries or central documents to manually or automatically refine the query.

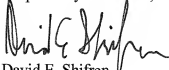
In snippet search portions of context surrounding a search term are displayable. This aids query reformulation by permitting indication of other discriminating search terms.

Accordingly, Rao fails to disclose the limitation of claim 1 directed to analyzing the query results with respect to the one or more target attributes and the one or more auxiliary attributes to determine a relative selectivity for the one or more auxiliary attributes.

Dependent claims 2-4, 7-10 and 21 are patentable at least by virtue of their dependency from claim 1. Moreover, these claims recite additional subject matter which is separately patentable over the cited references.

In view of the above, Applicants believe that claims 1-4, 7-10 and 21 are in condition for allowance, and respectfully request withdrawal of the present rejections.

Respectfully submitted,



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